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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,488	07/07/2005	Manfred A. A. Lupke	SWH-11923-IUS	7827

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Dennison Associates
133 Richmond Street, Suite 301
Toronto, ON M5H 2L7
CANADA

EXAMINER

LEYSON, JOSEPH S

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/541,488

Applicant(s)

LUPKE ET AL.

Examiner

Joseph Leyson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the subject matter of claims 21 and 22. However, note that the rejection of claims 21 and 22 under 35 USC 112, 1st paragraph, below, should be overcome before making any correction.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 21 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The subject matter of claims 21 and 22 do NOT appear to be originally filed relative to the originally filed PCT parent application, and therefore is new matter. If applicants do not agree that claims 21 and 22 are new matter, applicants should show where in the originally filed PCT parent application (or priority documents thereof) such subject matter is disclosed. Note that this is a 371 patent application with an effective filing date of December 19, 2003, the filing date of the PCT parent application.

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4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 7-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites "said outlets" and "the outlets" which lack antecedent basis making unclear to what the "outlets" refers. The examiner suggests changing "outlets" (both occurrences) to --outlet ports--. This antecedent problem carries over to claim 8.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 7 are 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Farrell (U.S. Patent 3,809,515).

Farrell (U.S. Patent 3,809,515) teaches equipment used in the molding of plastic pipe, the equipment including a plastic supply and plastic feed (an extruder cylinder; i.e., col. 2, line 43, to col. 3, line 2) that provide molten plastic for making the pipe to a flow distributor (i.e., fig. 1) connected to an upstream end of die tooling (i.e., fig. 1), said plastic supply being located remotely of the die tooling (i.e., fig. 1), said die tooling having a first internal elongate die passage 102 of a ring shaped cross section to carry the molten plastic to a downstream molding region 120 where the pipe is shaped, the

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die passage 102 having a ring shaped mouth (i.e., fig. 1) covered by the flow distributor, the flow distributor having a first plastic flow path 50 having an inlet connected to said plastic feed and five two channels 52 (and 92a-92e; i.e., col. 5, lines 5-21) connected to said inlet with each channel having an outlet port (i.e., figs. 1-3) feeding molten plastic to said ring shaped mouth of said first internal die passage 102 with said outlet ports being distributed about said ring shaped mouth (i.e., figs. 1-3), said equipment further including a first adjustment means 118 associated with said channels 52, 92a-92e to manually vary the distribution of molten plastic from the plastic supply through the outlet ports positioned around the ring shaped mouth of the first internal die passage 102 to produce an even distribution (i.e., col. 7, lines 35-47) of the molten plastic from the elongate die passage 102 at the downstream molding region 120, wherein the first adjustment means includes a manually adjustable valve 118 associated with each channel (note that all the channels 52, 92a-92e lead to the valve 118), the valve 118 is independently adjustable at an exposed upstream face of the flow distributor via push-pull screw 144 (i.e., figs. 1 and 6).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 7-9, 11 and 13-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over German reference (DE 29517378) in view of Farrell (U.S. Patent 3,809,515).

German reference (DE 29517378) discloses equipment used in the molding of plastic pipe, said equipment comprising a plastic supply and plastic feed that provide molten plastic for making the pipe to a flow distributor 6, 8, 22, 44 connected to an upstream end of die tooling 47, 48 (i.e., fig. 1), said plastic supply being located remotely of the die tooling, said die tooling having a first internal elongate die passage 4 of a ring shaped cross section to carry the molten plastic to a downstream molding region 2 where the pipe is shaped, the die passage having a ring shaped mouth covered by the flow distributor, the flow distributor having a first plastic flow path (connected to conduit 7) having an inlet connected to said plastic feed and at least four channels (i.e., figs. 3-4) connected to said inlet with each channel having an outlet port feeding molten plastic to said ring shaped mouth of said first internal die passage 4 with said outlets being distributed about said ring shaped mouth (i.e., figs. 1, 3 and 4), wherein said die tooling includes a second elongate die passage 3 having a ring shaped

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mouth which is outwardly around the mouth of the first die passage 4 and which is also covered by the flow distributor, the flow distributor having a second plastic flow path (connected to conduit 5) having an inlet connected to said plastic supply to receive molten plastic and at least four channels (i.e., figs. 3-4) connected to said inlet with each channel having an outlet port feeding molten plastic to said ring shaped mouth of said second elongate die passage 3 with said outlets being distributed about said ring shaped mouth of said second elongate die passage 3 (i.e., figs. 1, 3 and 4), wherein said flow distributor comprises a plate 6, 8, 22, 44 secured to the upstream end of said die tooling 47, 48, said plate including a first plate portion 8, 22 which feeds through the first plastic flow path to the mouth of the first die passage 4 and a second plate portion 6, 44 which feeds second plastic flow path to the mouth of said second die passage 3, wherein said channels of said flow distributor are in a plane across said first internal die passage 4 of said die tooling 47, 48 (i.e., figs. 1, 3 and 4), and wherein said die tooling 47, 48 is removable without removal of said flow distributor 6, 8, 22, 44 (i.e., note screws shown in fig. 1). However, German reference (DE 29517378) does not disclose the adjustment means as recited by the instant claims.

Farrell (U.S. Patent 3,809,515) discloses equipment as mentioned above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the flow distributor of German reference (DE 29517378) with the adjustment means, flow paths and/or channels of the flow distributor of Farrell (U.S. Patent 3,809,515) because both flow distributors are art recognized alternative means for distributing flow into an annular flow and/or because the adjustment means

would produce an even distribution of the plastic, as disclosed by Farrell (U.S. Patent 3,809,515). As to instant claim 11, either German reference (DE 29517378: p. 6) or Farrell (U.S. Patent 3,809,515: col. 2, line 43, to col. 3, line 2) disclose first and second extruders feeding first and second conduits.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over German reference (DE 29517378) in view of Farrell (U.S. Patent 3,809,515) as applied to claims 7-9, 11 and 13-22 above, and further in view of WIPO reference (WO 00/07801).

WIPO reference (WO 00/07801) discloses a plastic supply and feed including a single extruder with a single conduit from the extruder to first and second supply branches, the first supply branch feeding to a first plastic flow path, and the second supply branch feeding a second plastic flow path, the plastic supply and feed enabling feeding of the first and second plastic flow path by a single extruder (i.e., figs. 4 and 5).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to further modify the plastic supply and feed with the plastic supply and feed of WIPO reference (WO 00/07801) because such a modification would enable feeding of the first and second plastic flow paths by a single extruder, as disclosed by WIPO reference (WO 00/07801).

12. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over German reference (DE 29517378) in view of Farrell (U.S. Patent 3,809,515) as applied to claims 7-9, 11 and 13-22 above, and further in view of Satchell et al. (U.S. Patent 4,276,250).

Satchell et al. (U.S. Patent 4,276,250) discloses a plastic supply and feed including first and second extruders 20, 22, a first conduit 26 from said first extruder 20

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and a second conduit 28 from said second extruder 22, a first supply branch 80, 82, 84, 88, 90 feeding to a first plastic flow path 65, a second supply branch 100, 102, 104, 108, 94 feeding to a second plastic flow path 63, and connecting branches 92, 112 between said first and second supply branches, both said first and said second conduits 26, 28 from said first and second extruders 20, 22 feeding to said connecting branches 92, 112, and flow adjustment means 86, 106 for selectively opening and closing the first and second conduits relative to said connecting branches, which enables a pipe product to have axial sections of materials having different characteristics.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to further modify the plastic supply and feed with the plastic supply and feed of Satchell et al. (U.S. Patent 4,276,250) because such a modification would enable the pipe to have axial sections of materials having different characteristics, as disclosed by Satchell et al. (U.S. Patent 4,276,250).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Davidson (U.S. Patent 3,491,406), Neubauer (U.S. Patent 6,616,437) and Kossner et al. (U.S. Patent 7,037,098) are cited as of interest to show the state of the art.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Leyson whose telephone number is (571) 272-5061. The examiner can normally be reached on M-F 9AM-5:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gupta Yogendra can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JL


ROBERT DAVIS
PRIMARY EXAMINER
GROUP 1300 / 700

9/24/06